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**BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

RE: Application of nii communications, Ltd.)
 d/b/a nii communications, L.P. for a Certi-)
 ficate of Public Convenience and Necessity)
 to Providence Resold and Facilities-based)
 Local Exchange Telecommunications)
 Services, Access Services and Resold Inter)
 exchange Telecommunications Services)
 within the State of South Carolina)

Docket No. 2005-88-C

**TESTIMONY
OF
DANA HOYLE**

on Behalf Of

**nii communications, Ltd., d/b/a
nii Communications, L.P.**

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1. **Q. Please state your name and address for the Commission.**
2. **A.** My name is Dana Hoyle. My address is 1717 N Loop 1604 E, Suite 300, San 3.
3. Antonio, Texas 78232.
4. **Q. By whom are you currently employed and in what capacity?**
5. **A.** I am employed by nii communications, Ltd. as its Manager of Regulatory Affairs.
6. **Q. How long have you been in that position?**
7. **A.** I have been with NII since March of 2003.
8. **Q. Please provide a brief description of your professional experience and your**
9. **experience in the telecommunications industry.**
10. **A.** I have worked in the competitive telecommunications industry, particularly in
11. regulatory, for the last fourteen years. I have worked both in-house as Manager or
12. Director of Regulatory Affairs and also as a consultant for various types of
13. competitive services provider. I have provided regulatory certification and
14. compliance type services to all kinds of competitive service providers, including
15. but not limited to inmate phone providers, pay telephone providers, long distance
16. providers and competitive local exchange providers.
17. **Q. Did you prepare or have you reviewed carefully the application filed on**
18. **behalf of nii communications, Ltd.?**
19. **A.** Yes.
20. **Q. What is the purpose of your testimony?**
21. **A.** The purpose of my testimony is to present evidence of the financial, technical and
22. managerial abilities of nii communications, Ltd. to provide service in the state of South

23. Carolina.

24. **Q. Tell us a little about the history of nii communications, Ltd. and explain the**
25. **nature of its existing business.**

26. **A.** The company was founded in 1996 by Richard Burk as a management consulting
27. firm specializing in strategies for entering the newly competitive local exchange industry,
28. and reformed by Mr. Burk in 1998 as a telecommunications service provider in the local
29. exchange market.

30. The UNE-P business model combines elements of both resellers and facilities-based
31. providers. NII leases the local loop and switching port for its customers from the
32. incumbent telephone company and provides service as a facilities-based carrier. The loop
33. and port are under lease and the company controls their access. The company maintains
34. pricing power and collects local access fees from long distance providers for inbound
35. calls to their customers. NII in effect becomes a facilities-based operator without
36. incurring any of the fixed costs of the facilities-based model.

37. **Q. Does the Applicant have any affiliated companies?**

38. **A.** No, the Applicant does not have any affiliated companies.

39. **Q. Describe the ownership of NII.**

40. **A.** NII is a limited partnership. Its partners are nii communications, Inc. and nii
41. communications, LLP. NII's officers and directors are responsible for the day to
42. day management of the company.

43. **Q. To your knowledge, have any of those officers ever been convicted of a**
44. **felony?**

45. **A.** To my knowledge, none of the officers, directors or managers of the Applicant
46. have ever been convicted of a felony.

47. **Q. Have you included this list of all of the officers and members that you just**
48. **mentioned with your application?**

49. **A.** Yes. The list of officers and directors and their associated experience is attached
50. to the Application as Exhibit D.

51. **Q. Tell us a little more about the management and employees of nii**
52. **communications, Ltd. that will be directly involved in this service offering.**

53. **A.** NII has been a provider of competitive telecommunications services since 1999.
54. As demonstrated in our application, NII's management team has collectively one
55. hundred and sixteen (116) years in the telecommunications industry. NII's
56. employees have established NII's existing service territories, effectively earning
57. the confidence of consumers in the states of Arkansas, California, Oklahoma and
58. Texas.

59. As one of the first providers of UNE-P service in Texas, the Company paved the way for
60. other competitive providers by being the first company in Texas to provision services
61. under the Unbundled Network Element Platform such as Direct Inward Dialed lines and
62. terminal hunting lines. The Company's management team includes individuals with

63. substantial experience in successfully developing and operating telecommunications
64. businesses.

65. **Q. Based on what on have just told the Commission, do the Applicant's**
66. **employees have significant telecommunications experience?**

67. **A.** Yes, absolutely they do.

68. **Q. The Company has provided the Commission with certain financial**
69. **statements with its application. Will you please discuss generally the**
70. **financial condition of the company as expressed in the financial statements?**

71. **A.** Attached to the application as Exhibit C are the Company's unaudited financials
72. for the calendar year 2004. Since August of 2002, the Company has been
73. generating enough cash flow to sustain and grow its business.

74. **Q. Does the Company have sufficient funding for the project? If so, please**
75. **explain that for the Commission?**

76. **A.** The Company does have sufficient funding for this project. As discussed in the
77. next question, funding for this project will not require a substantial outlay of cash.
78. This is due to the fact that the Company does not intend to lay facilities, but will
79. rather operate a as a facilities based provider by leasing the network from the
80. incumbent local exchange carrier.

81. **Q. What type of capital outlay will be required to provide the contemplated**
82. **service in South Carolina?**

83. **A.** NII does not intend to build facilities in the State of South Carolina. NII has
84. secured a wholesale arrangement with BellSouth, whereby NII will lease it's
85. unbundled network element platform. As such, NII will not require a large capital
86. outlay in order to provide services to South Carolina consumers.

87. **Q.** **So, do you feel confident that the funding that you described above will**
88. **provide ample capital available for the South Carolina service offering the**
89. **Nii communications?**

90. **A.** Yes, I do.

91. **Q.** **Are the member owners committed to the financial success of this endeavor?**

92. **A.** Yes.

93. **Q.** **Please describe the services that NII seeks to provide through the grant of its**
94. **application in this docket.**

95. **A.** The Company seeks the authority to offer a full array of local exchange services
96. to customers in local exchanges in the State of South Carolina presently served
97. by Bell South. The Company will initially provide a variety of dedicated and
98. switched local exchange services to its customers, including:

99. **"Plain Old Telephone Service"** – originating and terminating local calls/dial-
100. tone service, provided over the Company's UNE-P services;

101. **Switched Access Service** – originating and terminating traffic between a
102. customer premise and an IXC Point of Presence ("POP") via shared local trunks

103. using a local switch;
104. **PBX Trunking** – carrying switched traffic between the central office and the
105. customer's PBX;
106. **Direct Inward Dial** – used in conjunction of PBX trunks in order to allow calls to
107. be specifically routed within the end user's equipment;
108. **Integrated Services Digital Network (ISDN)** – allows digital connections with
109. speeds up to 128k over two B channels;
110. **Private Line** – dedicated circuit between two points
111. **Q. So, to recap could you provide a general timeline reflecting how NII will**
112. **develop its service offerings?**
113. **A.** NII's is committed over the next 24 to 48 months to developing a profitable
114. business providing telecommunications services to consumers in the State of
115. South Carolina. It is anticipated, after that time, NII will have the customer and
116. revenue base to allow it to expand further into the State.
117. **Q. In regard to any provision of long distance service down the road, will NII**
118. **also provide its customers with access to the long distance carrier of their**
119. **choice?**
120. **A.** Yes.
121. **Q. What is nii communications's targeted market, if any?**
122. **A.** NII's target market for the State of South Carolina is small business and
123. residential customers.
124. **Q. Why is that your initial targeted market?**

125. A. NII's business plan is structured as a UNE-P type provider and has had success in
126. other states offering services to small business and residential consumers.

127. **Q. Describe the marketing program of Nii communications.**

128. A. When NII began providing services, its initial focus was providing services to
129. small business customers. A sales force was employed to provide face to face
130. sales. NII has found this to be a very effective marketing program and would
131. extend this sales methodology to secure sales in South Carolina.
132. NII could also use other types of marketing efforts including but not limited to
133. agent programs and telemarketing sales.

134. **Q. If Nii communications decided to use telemarketers to obtain customers**
135. **would it maintain control over the script?**

136. A. Yes. NII has used telemarketers to secure sales in other states. Prior to
137. commencement of telemarketing activities, NII's regulatory group reviews and
138. approves all scripts used to sell telecommunications service.

139. **Q. Similarly, if telemarketing were used, would the Company be willing to**
140. **provide the Attorney General with a copy of that script?**

141. A. Absolutely.

142. **Q. Will the Company set up internal procedures that will guard against any**
143. **possible "slamming"?**

144. A. Yes. The company has a Code of Conduct that it requires all employees and

145. agents to sign. Violation of the policies contained in the Code of Conduct could
146. result in disciplinary action, up to and including termination.
147. **Q. Has the Company has any complaints filed against it or other actions taken**
148. **against it regarding “slamming”?**
149. **A.** NII has been providing telecommunications services since 1999; as such, it has
150. received informal consumer complaints via regulatory agencies. NII values its
151. opportunity to provide services to its customers and therefore, works very hard to
152. ensure customer satisfaction. Additionally, NII’s history of face to face sales has
153. kept allegations of slamming to virtual nonexistent levels. During the last two
154. years, since I have been Manager of Regulatory Affairs, to the best of my
155. knowledge, there has been only one complaint for slamming that was found to be
156. credible. The agent responsible was terminated for violation of the Code of
157. Conduct prior to NII being noticed by the regulatory agency.
158. **Q. How will the Company bill for local calls?**
159. **A.** NII currently bills and collects for services rendered to its customers in other
160. states of operation. The functionality of billing the customer for local service will
161. be completed via NII’s in-house billing software. It should be noted, NII does not
162. charge measured usage for local calls.
163. **Q. Will the Company provide access to emergency services through 911 and,**
where available, E 911?

164. A. Yes.

165. Q. **Do you know who will provide those 911 services at that point in time?**

166. NII leases the unbundled network of the incumbent local exchange carrier. NII's

167. contract with that provider allows that 911 calls will be processed for NII's

168. customers in the same manner as it is provided to the incumbent's customers.

169. A. **How will the Company deal with consumer questions and complaints? Who**

170. **will be the main contact person for the MPSC and the Attorney General's**

171. **office?**

172. A. The Company understands the importance of effective customer service for local

173. service customers. NII has made arrangements for its customers to call the

174. company at its toll-free customer service number 1-800-847-2448. This number is

175. answered twenty-four hours a day, seven days a week. In addition, customers may

176. contact the company in writing at the headquarters address, as well as via email at

177. customerservice@niicommunications.com. The toll free number will be printed

178. on the customer's monthly billing statements. I will be the main contact for the

179. MPSC and the Attorney General's office.

180. Q. **Has the Company negotiated an interconnection agreement with BellSouth?**

181. **If not, what plans does it have to do so?**

182. A. Yes. NII has negotiated and signed a DS0 Services Agreement with BellSouth.

183. This agreement became effective on January 1, 2005.

184. **Q. How will the Company physically complete local calls?**
185. **A. Local calls will be completed over BellSouth's network in accordance with NII's**
186. **DSO Services Agreement.**
187. **Q. Will the Company comply with all the filing requirements set out in the**
188. **Commissions September 1995 Order in the competition docket, as well as**
189. **other requirements, including the filing of annual reports?**
190. **A. Yes.**
191. **Q. Have you reviewed generally the rules and regulations published by the**
192. **Commission for telecommunications carriers? Will you abide by such regulations?**
193. **A. Yes.**
194. **Q. Will the Company pay such inspection and supervision fees as may be**
195. **required in the state?**
196. **A. Yes.**
197. **Q. Will you submit the required annual report to this Commission?**
198. **A. Yes.**
199. **Q. You have attached illustrative tariff(s) to your application. Will the**
200. **Company ensure that such tariffs are in compliance with the Commission's**
201. **telephone rules?**
202. **A. Yes.**
203. **Q. Will the Company update such tariffs as needed to reflect any changes?**

204. A. Yes.
205. Q. **Where will the Company's records be kept?**
206. A. NII's records will be kept at its headquarters located in San Antonio, Texas.
207. Q. **When do you anticipate offering dialtone, or switched services?**
208. A. As soon as NII receives certification, it intends to focus its sales efforts in the
209. State of South Carolina. NII anticipates that we should be offering switched
210. services within the first three to six months after certification.
211. Q. **Is Company certificated in any other states?**
212. A. Yes. NII is currently certified in Arkansas, California, Florida, Illinois, Ohio,
213. Oklahoma, Texas and Wisconsin.
214. Q. **Has the Company ever been denied certification in any state or is it currently**
215. **the subject of a formal show cause, cease and desist proceeding or other**
216. **similar state or federal proceeding?**
217. A. No.
218. Q. **Will the public interest of South Carolina citizens be served by the**
219. **Company's proposed service in South Carolina?**
220. A. Yes.
221. Q. **Why do you believe that your service will be in the public interest?**
222. A. Approval of this application will serve the public interest by creating greater
223. competition and providing consumers with a greater choice in local service.

224. **Q.** Does this complete your testimony?

225. **A.** Yes.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

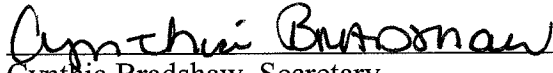
CERTIFICATE OF SERVICE

This is to certify that I, Cynthia W. Bradshaw, an employee of Nexsen Pruet, LLC, have this date served one (1) copy of the TESTIMONY OF DANA HOYLE in the nii communications, Ltd. d/b/a nii communications, L.P to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

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